95-799 (2)

Supreme Court, U.S.
FILED
OCT 2 1995
CLERK

NO._____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1995

IN RE ELIJAH W. RATCLIFF, ETC.,

PETITIONER

ON PETITION FOR WRIT OF MANDAMUS

APPENDIX TO PETITION FOR WRIT OF MANDAMUS

==========

Elijah W. Ratcliff,
Consultant
P. O. Box 862
Livingston, Texas 77351
Ph. 409 327-7108

==========

108 pp

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CIV205 T R A V I S
C O U N T Y OCTOBER 6, 1992
DOCKET DETAIL DISTRICT
COURT MANAGEMENT SYSTEM TIME: 10:28

CAUSE NUMBER : 9213523
CAUSE STATUS : PENDING
ORIG. FILING ; 09/21/92
TYPE OF SUIT : JUDICIAL REVIEW
COURT ASSIGN ; 98th District Court
JURY FEE PAID: NO

>>>>>>>>>>>> I N V O L V E D P A R
T I E S <<<<<<<<<<<

TYPE:
>>> PLAINTIFF
P01 : DUNBAR RESOURCES-LIVINGSTON, INC.
PA01; DUNBAR RESOURCES-LIVINGSTON,INC., PRO SE
P.O. BOX 862
LIVINGSTON, TEXAS 77351

>>> DEFENDANT
D01 : TEXAS EXPLOY14ENT COMMISSION

>>> OTHER INVOLVED
001 : ELIJAH W. RATCLIFF PRO SE

>>>>>>>>>>>> I S S U A N C E / S E R
V I C E <<<<<<<<<<<

ISS/FILE DATE	SRV/RTN DATE	S B	P B	CLRK INIT	SEQ DESCRIPTION OF SERVICE NUM
092292	JOHN				Citation Issued & Service (Precinct5) 001

TEXAS EMPLOYMENT COMMISSION
BY DELIVERY TO ITS CHAIRMAN, OR OTHER AUTHORIZED OFFICIAL

TEC BUILDING AUSTIN, TRAVIS COUNTY, TEXAS
78778

093092 092492 JOHN
Citation Executed
Texas Employment Commission

>>>>>>>>>>> P L E A D I N G S <<<<<<<<<<<

FILED DATE		CLRK INIT
DESCRIPTION OF PLEADINGS		
092192		JOHN
original Petition		
092192		JOHN
Motion for Leave to Appear		

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  CPT014                          Basic Paper
Screen OCTOBER 12, 1992

  Dept: C5                    (09/24/92 @ROAIK
  09/24/92 ROSPRI)
  Cause: 9213523               bpn: 885156
  Type; CITS- Assgn: 478 = B.Aikman  -9-
  Court: D 098                   County:
  TRAVIS              Last action: RPER 0
/24/92
  Plntff: DUNBAR-RESOURCES-LIVINGSTON,IN
Defndt: TEXAS-EMPLOYMENT-COMMISSION

  Svc name: TEXAS-EMPLOYMENT-COMMISSION
agent:
   address:                  TEC BUILDING
AUSTIN, TX 78701
          (number) (street name)
(apt)  (city, state)             (zip)
   phone/s:
map:

  T @ I   Issued: 09/22/92   Recd:
09/24/92 08:35    Expires;

  P.Atty:
  Rtrn: name DUNBAR-RESOURCES-
  LIVINGSTON,IN bus
    @ ]  Address P-0-BOX-862
LIVINGSTON,-TX-77351

   Fees: tot 0.00    nc/bd - recd 0.00
bal 0-00 (last ck: PD-N-CRT
  Other: tot                    recd
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  LABELS          NEXT(NO.,TYPE) 885156
BPN UPDATE?(Y/N)       XMIT
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P 425 051 146
Receipt for
Certified Mail
No Insurance Coverage
Provided

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(See Reverse)
Sent to:
General Counsel
Dan Morales, Atty
State Bar of Texas
P. O. Box 12548
Austin, Texas 78711

Postage $ .52
Certified Fee 1.00
Special
Delivery Fee
Restricted
Delivery Fee
Return Receipt
Showing to Whom
& Date Delivered
Return Receipt
Showing to Whom,
Date, and
Addressee's
Address
TOTAL Postage
Fees

Postmark or Date

February 24, 1993

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Austin, TX 78711-
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Showing to Whom
& Date Delivered
Return Receipt
Showing to Whom,
Date and
Addressee's
Address
TOTAL Postage &
& Fees

Postmark or Date

February 24, 1993

ELIJAH W. RATCLIFF,
CONSULTANT

1000 West Street
P. O. Box 862
Livingston, Texas 77351-0862
Ph. 409 327-7108

February 23, 1993

Amalia Rodriguez-Mendoza
District Clerk
Travis County Courthouse
P. O. Box 1748
Austin, Texas 78767

Re: Dunbar Resources, etc.
VS
Texas Employment Commission, et al.
No. 92-13523
District Court
Travis County, Texas

Dear Madam:

Enclosed please find Plaintiffs' Original Petition for filing in the above entitled and numbered cause as currently served on the subject parties.

A stamped reply envelope is submitted herewith to facilitate acknowledgment.

Yours truly,

Elijah W. Ratcliff,

Encl: (1 reply envelope)

cc: Hon. Dan Morales,
Attorney General of Texas

General Counsel
State Bar of Texas

NO. 92-13,523

ELIJAH W. RATCLIFF,
INDIVIDUALLY, IN THE DISTRICT COURTS
AND OF TRAVIS COUNTY, TEXAS
ELIJAH W. RATCLIFF,
EX RELATIONE 98TH JUDICIAL DISTRICT

DUNBAR RESOURCES-
LIVINGSTON, INC.,
PLAINTIFFS
Vs
ROBERT C. JOHNSTONE; R. D. COOPER;
THE STATE OF TEXAS; THE STATE
BAR OF TEXAS, AN AGENCY OF THE
STATE OF TEXAS; AND THE TEXAS
EMPLOYMENT COMMISSION, AN AGENCY
OF THE STATE OF TEXAS,
DEFENDANTS

PLAINTIFF'S FIRST AMENDED
ORIGINAL PETITION

TO THE SAID HONORABLE COURT:

Elijah W. Ratcliff, individually and as a fiduciary and a substantial interest holder in Dunbar Resources-Livingston, Inc., an entity doing business at 1000 West Street in Livingston, Polk County, Texas, each of which may be served at P. 0. Box 862 in Livingston, Polk County, Texas 77351 in the instant proceeding, hereinafter referred to as Plaintiffs, hereby contest and deny liability

attributed to such parties by a certain Statement of Employer Account issued by the Texas Employment Commission arising out of its Tax Department at Lufkin, Texas, referencing Texas Employment Account No. 01-956543-2, and alleging an amount due and owing, by Plaintiffs, and such Plaintiffs seek further ...

Filed in The District Court of Travis County, Texas
FEB 2 6 1992 at 11:00 A. M.
Anialia Rodrigues-Mendoza, Clerk

AMALIA RODRIGUEZ-MENDOZA. DISTRICT CLERK. TRAVIS COUNTY COURTHOUSE, THIRD FLOOR

March 8, 1993

Elijah W. RatCliff
1000 West Street
P.O. Box 862
Livingston, Texas 77351-0862

Mr. Ratcliff,

Enclosed you will find a copy of the letter you sent for filing on March 8th, it is my understanding that you are requesting service on the other defendants in this suit. If so, there will be a fee of $48.00 per defendant charge.

Please resutmit your request with the proper fees and we will honor your want for service. Attached is a copy of the docket sheet for this case, in it you can see that there are a total of 5 defendants. This docket sheet shows the defendants as a D01, D02... etc..

Once you resubmitt this letter to us , we can serve the remaining parties.

If you bave any questions, please call me.

Thank you

John Paul Compton, Deputy

Travis County District Clerk's Office

P.O. BOX 1745 AUSTIN, TFXAS 78767 (512) 473-9457

ELIJAH W. RATCLIFF,
CONSULTANT

1000 West Street
P. O. Box 862
Livingston, Texas 77351-0862
Ph. 409 327-7108

March 6, 1993

Amalia Rodriguez-Mendoza
District Clerk
Travis County Courthouse
P. O. Box 1748
Austin, Texas 78767

Re: Dunbar Resources, etc.
Vs
Texas Employment Commission, et al.
No. 92-13523
District Court
Travis County, Texas

Dear Madam:

A count of the copies of the Amended Pleadings returned to me by you suggests that the Secretary of the State Bar of Texas or its General Counsel was not cited and served as sought by such pleadings. Duplicate copies of such pleadings are returned, herewith, and your courtesy in clarifying the situation is requested.

A stamped reply envelope is submitted herewith to

facilitate this request.

Yours truly,

Elijah W. Ratcliff,

Enclosures

Filed in
The District Court
of Travis County, Texas

MAR 0 8 1993
at 10:10 A. M.

AMALIA RODRIEGUEZ-MENDOZA, DISTRICT CLERK
TRAVIS COUNTY, TEXAS

Receipt for $48.00 poor optical
recognition quality

Cause No. 9213523 Receipt No. 235191

PAID BY DUNBAR GROCERY-WASHATERIA
MARCH 10, 1993
PAYMENT FOR: CITATION-ISS & SERVICE
COURT: 098
AMOUNT RECEIVED: 48.00
PAYMENT BY: CHECK
RECEIVED BY: JOHN COMPTON TIME: 09:27

Cause No- 9213523

C I T A T I O N

T H E S T A T E O F T E X A S
DUNBAR RESOURCES-LIVINGSTON, INC.
Plaintiff Plaintiff

and ELIJAH W. RATCLIFF. Relator

vs.

ROBERT G. JOHNSTONE. R.D. COOPER, THE STATE OF TEXAS, THE STATE BAR OF TEXAS AND THE TEXAS EMPLOYMENT COMMISSION
Defendant

TO: THE STATE BAR OF TEXAS

by DELIVERY To ITS SECRETARY OR ITS GENERAL COUNSEL

AUSTIN, TEXAS 78701

Defendant, in the above styled and numbered cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a writtten answer with the clerk who issued this citation by 10:00 A. M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Attached is a copy of the PLAINTIFF'S FIRST AMENDED ORIGINAL PETITION
of the PLAINTIFF In the above styled and numbered cause, which was filed on the 26th day of February, 1993, in the 98th Judicial District Court of Travis County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, this the 10th day of March, 1993.

AMALIA RODRIGUEZ-MENDOZA
TRAVIS COUNTY
DISTRICT CLERK
Travis County Courthouse
1000 Guadalupe,
P.O. Box 1748
Austin, Texas

By s//John Compton
JOHN COMPTON, Deputy

REQUESTED BY: DUNBAR RESOURCES-
LIVINGSTON, INC. PR
P. O. BOX 862
LIVINGSTON, TEXAS 77351

- - - -

person, a true copy of this together with the accompanying pleading, having first attached such copy of such citation to such copy of pleading and endorsed on such copy of citation the date of delivery.

Service Fee:$ GRUCE ELFANT

CONSTABLE PRECINCT # 5

TRAVIS COUNTY, TEXAS

Sworn to and subscribed this the a

day of

NOTARY PUBLIC. original copy Constable Precinct 5

CONSTABLE CONSTABLE

No. 92-13,523

ELIJAH W- RATCLIFF, INDIVIDUALLY, S IN THE DISTRICT COURT OF

AND

ET,TJAH W. RATCLIFF, EX RELATIONE
DUNBAR RESOURCES-LIVINGSTON, INC.
PLAINTIFFS

VS. TRAVIS COUNTY, TEXAS

ROBERT G. JOHNSTONE; R. D. COOPER,S
THE STATE OF TEXAS; THE STATE BAR S
OF TEXAS; AND THE TEXAS EMPLOYMENT COMMISSION, AN AGENCY
OF THE STATE OF TEXAS,
DEFENDANTS

98TH JUDICIAL DISTRICT

ORDER ON DEFENDANTS'SPECIAL EXCEPTIONS

On this day came on to be considered Defendant State Bar of Texas' First Amended Special Exceptions to Plaintiff's First Amended Original Petition and Defendant Texas Employment Commission's Plea to the Jurisdiction. After considering the evidence and argument of counsel, the Court sustains Defendant State Bar

of Texas' First Amended Special Exception. In addition, after considering the evidence and argument of counsel, the Court finds that Defendant Texas Employment Commission's Plea to the Jurisdiction is more properly before the Court as a special Exception, and, therefore, sustains Defendant Texas Employment Commission's Plea to the Jurisdiction as a special exception

As to each special exception, the Court hereby orders Plaintiff to amend Plaintiff's First Amended Original Petition as to a cause of action on or before Friday, August 27, 1993.

Signed this 18th day of August, 1993.

s// Judge Myers
JUDGE PRESIDING

No. 92-131523

ELIJAH W. RATCLIFF, INDIVIDUALLY, IN THE DISTRICT COURT OF

AND

ELIJAH W. RATCLIFF, EX RELATIONE DUNBAR RESOURCES-LIVINGSTON, INC.

PLAINTIFFS

VS. TRAVIS COUNTY, TEXAS

ROBERT G. JOHNSTONE; R. D. COOPER, § THE STATE OF TEXAS; THE STATE BAR OF TEXAS; AND THE TEXAS EMPLOYMENT COMMISSION, AN AGENCY OF THE STATE OF TEXAS,

DEFENDANTS

98TH JUDICIAL DISTRICT

ORDER ON DEFENDANT STATE BAR OF TEXAS' OBJECTION TO PLAINTIFF ELIJAH RATCLIFF ACTING AS ATTORNEY OF RECORD FOR PLAINTIFF DUNBAR RESOURCES-LIVINGSTON, INC.

On the 16th day of September, 1993, came on to be heard Defendant State Bar of Texas' Objection to Plaintiff Elijah Ratcliff Acting as Attorney of Record for Plaintiff Dunbar Resources-Livingston, Inc. After considering the evidence and

argument of counsel, the Court hereby finds that said objection is GRANTED. The Court further finds that Elijah Ratcliff is pro se, and that Elijah Ratcliff does not have standing to represent Plaintiff Dunbar Resources-Livingston, Inc.

s// John K. Dietz JUDGE PRESIDING

APPROVED AS TO FORM:

s// Mary F. Klapperich

Mary F. Klapperich
Assistant General Counsel
State Bar of Texas
State bar Card No. Ii550700
ATTORNEY FOR DEFENDANT

No. 92-13,523

ELIJAH W. RATCLIFF, INDIVIDUALLY, AND	IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS
ELIJAH W. RATCLIFF, EX RELATIONE DUNBAR RESOURCES-LIVINGSTON, INC. PLAINTIFFS	98TH JUDICIAL DISTRICT

VS. ROBERT C. JOHNSTONE;
R. D. COOPER,
THE STATE OF TEXAS;
THE STATE BAR OF TEXAS;
AND THE TEXAS EMPLOYMENT
COMMISSION, AN AGENCY
OF THE STATE OF TEXAS, DEFENDANTS

ORDER ON DEFENDANT STATE
BAR OF TEXAS' MOTION TO SEVER

On the 16th day of September, 1993, came on to be heard Defendant State Bar of Texas' Motion to Sever. After considering the evidence and argument of counsel, the Court hereby DENIES said Motion.

JUDGE PRESIDING

APPROVED AS TO FORM:

s// Mary F. Klapperich
Mary F. Klapperich,
Assistant General Counsel
State Bar of Texas
state Bar Card No. 11550700

ATTORNEY FOR DEFENDANT

Office of the
Attorney General

State of Texas

DAN MORALES

ATTORNEY GENERAL October 7, 1993

Honorable John K. Dietz
250th District Court
P. O. Box 1748
Austin, Texas 78767

RE: Elijah W. Ratcliff and Dunbar Resources, Inc. vs. The State Bar of Texas, et al., Cause No. 92-13,523; in the 98th District Court of Travis County, Texas

Dear Judge Dietz:

Enclosed is a proposed Order in the above referenced cause of action arising from the hearing that occurred on September 16, 1993. At a subsequent hearing on the same matter Judge Davis informed me that the Defendants' Plea to the Jurisdiction had been denied according to the docket sheet. I was not aware of that and have included that portion of the order in the attached document.

I hope the attached Order meets your intentions. If not, please contact me.

By copy of this letter I am furnishing copies to all parties.

Sincerely,

s// Susan F. Eley

Susan F. Eley
Assistant Attorney General

P. O. Box 12548
Austin, Texas 70711-2548
(512) 463-2002
(512) 478-4013 FAX
SFE/sf

cc: Elijah W. Ratcliff Mary F. Klapperich
P. O. Box 862 P. O. Box 12487
Livingston, Texas 77351 Capitol Station
Austin, Texas 78711

512/463-2100 P.O. BOX 12548
AUSTIN, TEXAS 7871 I-Z548

NO. 92-13,523

ELIJAH W. RATCLIFF, INDIVIDUALLY, AND ELIJAH W. RATCL1FF, EX RELATIONE DUNBAR RESOURCES-LIVINGSTON, INC.

IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS 98TH JUDICIAL DISTRICT

vs.

ROBERT G. JOHNSTONE, R-D. COOPER; KAREN JOHNSON; THE STATE OF TEXAS; THE STATE BAR OF TEXAS, AN AGENCY OF THE STATE OF TEXAS; A-ND THE TEXAS EMPLOYMENT COMMISSION, AN AGENCY OF THE STATE OF TEXAS

ORDER ON DEFENDANTS ROBERT G. JOHNSTONE, R. D. COOPER, THE STATE OF TEXAS AND THE TEXAS EMPLOYMENT COMMISSION'S PLEA TO THE JURISDICTLON AND SPECIAL EXCEPTIONS

On the 16th day of September, 1993, came on to be heard Defendants Robert G. Johnstone, R.D. Cooper, the State of Texas and the Texas Employment Commission's Plea to the Jurisdiction and Special Exceptions. After considering the evidence and argument of counsel, the Court hereby finds that Defendants Robert G. Johnstone, R.D. Cooper, the State of Texas and the Texas Employment Commission's Plea to the Jurisdiction

should be denied but that Defendants Special Exception is well found and should be granted.

It is therefore ORDERED that Defendants' Plea to the Jurisdiction is DENIED and that Defendants, Special Exception is GRANTED and that paragraph I-V of Plaintiff's Second Amended Original Petition are stricken insofar as they relate to the actions of Elijah W. Ratclitf, ex relatione Dunbar Resources-Livingston, Inc. v. Defendants Robert G. Johnstone, R.D. Cooper, the State of Texas and the Texas Employment Commission.

SIGNED this 30th day of November, 1993.

s// John K. Dietz
JUDGE PRESIDING

APPROVED AS TO FORM:

Susan F. Eley
Assistant Attorney General
State Bar No. 06514500
Taxation Division
P. O. Box 12548
Au5tin, Texa5 78711-2548
(512) 463-2002
(512) 478-4013 Telecopier

AMALIA RODRIGUEZ-MENDOZA

D13TRICT CLLRK, TRAVIS COUNTY
P.O. BOX 1748
AUSTIN. TEXAS 78767

Denying/S. Jdgmt
Cause No. 9213523
DUNBAR RESOURCES-LIVINGSTON, INC.
vs.
TEXAS EMPLOYMENT COMMISSION

You are hereby notified that the above order has been signed on the 30th day of NOVEMBER, 1993, by the 98th District Court of Travis County, Texas in the above entitled and numbered cause.

TO: DUNBAR RESOURCES-LIVINGSTON, INC.,
PRO SE
P. O. BOX 862
LIVINGSTON, TEXAS 77351

AMALIA RODRIGUEZ-MENDOZA, District Clerk

IN THE COURT OF APPEALS,
THIRD DISTRICT OF TEXAS,
AT AUSTIN

JUDGMENT RENDERED MARCH 9, 1994

NO. 3-94-053-CV

ELIJAH W. RATCLIFF V. ROBERT G. JOHNSTONE, R. D. COOPER, KAREN JOHNSON, STATE OF TEXAS, STATE BAR OF TEXAS, AND TEXAS EMPLOYMENT COMMISSION

APPEAL FROM 98TH DISTRICT COURT OF TRAVIS COUNTY

BEFORE JUSTICES POWERS, ABOUSSIE AND JONES

APPEAL DISMISSED FOR WANT OF JURISDICTION - PER CURIAM OPINION

THIS CAUSE having this day come on to be considered, and it appearing to the Court that it has this day dismissed appellant's motion for extension of time to file the record, and the Court being of the opinion that the trial-court order of November 30, 1993, is interlocutory; that the Court is without jurisdiction of the appeal; and that the appeal should be dismissed: IT IS ACCORDINGLY considered, adjudged and ordered that the appeal be and is hereby dismissed for want of jurisdiction. It is FURTHER ordered that the appellant, Elijah W. Ratcliff, as principal, and Lake Livingston Realty, Inc., of 1000 West Street, Livingston, Texas 77351 and Dunbar Resources-Livingston, Inc., of P. O. Box 862,

Livingston, Texas 77351, as sureties on the appeal bond herein, pay all costs relating to this appeal, both in this Court and the court below; and that this decision be certified below for observance.

IN THE COURT OF APPEALS, THIRD DISTRICT OF TEXAS, AT AUSTIN

NO. 3-94-053-CV

ELIJAH W. RATCLIFF,

APPELLANT

VS.

ROBERT G. JOHNSTONE, R. D. COOPER, KAREN JOHNSON, STATE OF TEXAS, STATE BAR OF TEXAS, AND TEXAS EMPLOYMENT COMMISSION,

APPELLEES

FROM THE DISTRICT COURT OF TRAVIS COUNTY, 98TH JUDICIAL DISTRICT

NO. 92-13523, HONORABLE JOHN K. DIETZ, JUDGE PRESIDING

PER CURIAM

Appellant Elijah W. Ratcliff seeks to appeal from the district court's November 30, 1993, order granting the appellees State Bar of Texas and Karen Johnson's plea to the jurisdiction and dismissing Ratcliff's third original amended petition. The November 30, 1993, 3rder does not, (1) explicitly dispose of appellees Robert G. Johnstone, R. D. Cooper, the State of Texas, and the Texas Employment Commission; (2) recite that the order is intended to be a judgment, much less a final judgment; or (3) contain a "Mother Hubbard" clause that denies all relief not expressly granted. See North E.

Indep. Sch. Dist. v. Aldridge, 400 S.W.2d 893, 897-98 (Tex. 1966).

We hold that the November 30, 1993, order is interlocutory, and, thus, we have no jurisdiction over this appeal. Tex. Civ. Prac. & Rem. Code Ann. § 51.012 (West 1986); Aldridge, 400 S.W.2d at 895 (order or judgment is interlocutory if it does not dispose of all parties and claims).

We dismiss for want of jurisdiction both the appeal and Ratcliff"S motion for extension of time to file the record. Tex. R. App. P. 60(a)(2).

Before Justices Powers, Aboussie and Jones Appeal Dismissed for Want of Jurisdiction

Filed: March 9, 1994
Do Not Publish

IN THE COURT OF APPEALS FOR THE THIRD DISTRICT OF TEXAS

AT AUSTIN

NO, 03-94-00141-CV

ELIJAH W. RATCLIFF, INDIVIDUALLY, AND ELUAH W RATCLIFF, EX RELATIONE DUNBAR RESOURCES-LIVINGSTON,

RELATOR

V.

THE HONORABLE W. JEANNE MEURER, PRESIDING JUDGE OF THE 98TH JUDICIAL DISTRICT OF TEXAS, AND THE HONORABLE AMALIA RODRIGUEZ-MENDOZA, CLERK OF THE DISTRICT COURT OF TRAVIS COUNTY,

RESPONDENTS

ORIGINAL PROCEEDING FROM TRAVIS COUNTY

ORDER
PER CURIAM

Relator's motion for leave to file petition for writ of mandamus is overruled. Tex. R. App. P. 121(c).

It is so ordered this 31st day of March, 1994.

Before Chief Justice Carroll, Justices Kidd and B. A. Smith
Do Not Publish

THE SUPREME COURT OF TEXAS
P. O. Box 12248
Supreme Court Building
Austin, Texas 78711
John T. Adams, Clerk

April 20, 1994

Mr. Elijah W. Ratcliff
P.O. Box 862

Livingston, TX 77351

Ms. Susan F. Eley
Office of the Attorney General
Dan Morales, A. G.
P. O. Box 12548
Capitol Station
Austin, TX 78711

Ms. Linda A. Acevedo
Assistant General Counsel
State Bar of Texas
P. O. Box 12487
Austin, TX 78711

RE: Case No. 94-0324
Style: ELIJAH W. RATCLIFF, individually, and ELIJAH W. RATCLIFF, EX RELATIONE DUNBAR RESOURCES-LIVINGSTON, [INC.]
v. THE HONORABLE JEANNE MEURER, JUDGE

Dear Counsel:

Today, the Supreme Court of Texas overruled relator's motion for leave to file petition for writ of mandamus in the above styled case.

Respectfully yours,

S// Michael C. Murphey

JOHN T. ADAMS, CLERK

BY: Michael C. Murphey, Deputy Clerk

cc: Ms. Amalia Rodriguez-Mendoza
The Hon. John K. Dietz
Honorable W. Jeanne Meurer
Ms. Karen R. Johnson

(Proposed Order)

No. 92-13,523

ELIJAH W. RATCLIFF, INDIVIDUALLY, AND ELIJAH W. RATCLIFF, EX RELATIONE DUNBAR RESOURCES-LIVINGSTON, INC. PLAINTIFF

§ IN THE DISTRICT COURT OF
§ TRAVIS COUNTY, TEXAS
§ 98TH JUDICIAL DISTRICT

vs.

ROBERT O. JOHNSTONE; R. D. COOPER, THE STATE OF TEXAS; THE STATE BAR OF TEXAS; KAREN JOHNSON; AND THE TEXAS EMPLOYMENT COMMISSION, AN AGENCY OF THE STATE OF TEXAS, DEFENDANTS

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ORDER ON DEFENDANTS STATE BAR OF TEXAS AND KAREN JOHNSON'S MOTION TO CLARIFY NOVEMBER 30,1993, ORDER

On this day came on to be heard Defendants' State Bar of Texas and Karen Johnson's Motion to Clarify November 30, 1993, Order granting Defendants' State Bar of Texas and Karen Johnson's Plea to the Jurisdiction which dismissed Plaintiffs' Third Original Petition with prejudice. Said Order signed by this Court was intended as a dismissal of this cause of action with prejudice. The Court therefore hereby dismisses this entire cause of action with prejudice and further denies all relief not expressly granted in this Order.

Signed this day of May, of 1994.

JUDGE PRESIDING

AMALIA RODRIGUEZ-MENDOZA
DISTRICT CLERK. TRAVIS COUNTY
P.O. BOX 1748
AUSTIN, TEXAS 78767

Order of Dismissal Signed
Cam No. 9213523
DUNBAR RESOURCE-LIVINGSTON, INC.
VS.
TEXAS EMPLOYMENT COMMOSSION

You are hereby notified that the above order has been signed on the 31st day, of May, 1994, by the 98th District Court of Travis County, Texas in the above numbered and entitled cause.

TO: ELIJAH W. RATCLIFF INDIVIDUALLY, PRO SE
P. O. BOX 862,
LIVINGSTON, TEXAS 77351

AMALIA RODRIGUEZ-MENDOZA, District Clerk

No. 92-13,523

ELIJAH W. RATCLIFF, INDIVIDUALLY,
AND
ELIJAH W. RATCLIFF, EX RELATIONE S
DUNBAR RESOURCES-LIVINGSTON, INC.
PLAINTIFFS
VS.
ROBERT G. JOHNSTONE; R. D. COOPER, S
THE STATE OF TEXAS; THE STATE BAR S
OF TEXAS; KAREN JOHNSON; AND THE S
TEXAS EMPLOYMENT COMMISSION, AN S
AGENCY OF THE STATE OF TEXAS, S
DEFENDANTS S
98TH JUDICIAL DISTRICT

IN THE DISTRICT COURT OF
TRAVIS COUNTY, TEXAS
98TH JUDICIAL DISTRICT S

ORDER

On the 28th day of June, 1994, came to be heard Plaintiffs, Motion for New Trial. Plaintiff, Elijah Ratcliff, appeared pro se.

Defendants Robert C. Johnstone, R. D. Cooper, The State of Texas, and The Texas Employment Agency appeared by and through counsel of record. Defendants State Bar of Texas and Karen Johnson appeared by and through counsel of record.

After considering the pleadings, evidence, and arguments of counsel, the Court is of the opinion that Plaintiffs' Motion for New Trial should and hereby is DENIED.

It is, therefore, ORDERED, ADJUDGED, and DECREED that Plaintiffs' Motion for New Trial in the above-styled cause of action is hereby DENIED.

SIGNED this 28th day of June, 1994.

s//Margaret A. Cooper
JUDGE PRESIDING

MANDATE

THE STATE OF TEXAS

TO THE 98TH DISTRICT COURT OF TRAVIS COUNTY, GREETINGS:

Trial Court Cause No. 92-13523

Before our Court of Appeals for the Third District of Texas on the 9th of March 1994, the cause on appeal to revise or reverse your judgment between

Elijah W. Ratcliff

No. 03-94-00053-CV v.

Robert G. Johnstone, R. D. Cooper, Karen Johnson, State of Texas, State Bar of Texas, and Texas Employmet Commission

was determined, and therein our Court of Appeals made its order in these words:

THIS CAUSE having this day come on to be considered, and it appearing to the Court that it has this day dismissed appellant's motion for extension of time

to file the record, and the Court being of the opinion that the trial-court order of November 30, 1993, is interlocutory, that the Court is without jurisdiction of the appeal; and that the appeal should be dismissed. IT IS ACCORDINGLY considered, adjudged and ordered that the appeal be and is hereby dismissed for want of jurisdiction. It is FURTHER ordered that the appellant, Elijah W. Ratcliff, as principal, and Lake Livingston Realty, Inc., of 1000 West Street, Livingston, Texas 77351 and Dunbar Resources-Livingston, Inc., of P. 0. Box 862, Livingston, Texas 77351, as sureties on the appeal bond herein, pay all costs relating to this appeal, both in this Court and the court below; and that this decision be certified below for observance.

Wherefore, we command you to observe the order of our Court of Appeals in this behalf and in all things have the order duly recognized, obeyed, and executed.

Witness the Honorable Jimmy Carroll,
Chief Justice of
the Court of Appeals for the Third
District of Texas,
with the seal of the Court affixed at the
City of Austin
on this the 12th day of July 1994.

W. KENNETH LAW, CLERK

By: s//Tricia McPeak

Tricia McPeak, Deputy

August 11, 1994

OFFICIAL NOTICE FROM COURT OF APPEALS
THIRD DISIRICT OF TEXAS

RE: Case No. 03-94-00340-CV

Style Elijah W. Ratcliff
v.
Robert C. Johnstone, R. D. Cooper, Karen Johnson, State of Texas

Appellant 's motion for accelerated appeal was dismissed by this Court on the date noted above.

T. C. Case # 92-13523
W. Kenneth Law, Clerk

THIRD COURT OF APPEALS
P. O. BOX 12547
AUSTIN, TEXAS 78711

MR. ELIJAH W.
RATCLIFF
P. O. BOX 862
MAIL TO: LIVINGSTON TX 77351

OFFICIAL NOTICE FROM COURT OF APPEALS
October 20, 1994

THIRD DISTRICT OF TEXAS
RE: Case 03-94-00053-CV

Style: Elijah W. Ratcliff
v. Robert G. Johnstone, R. D. Cooper, Karen Johnson, State of Texas

Appellant's motion to abate costs assessment against appellant dismissed by this Court on the date noted above.

T. C. Case # 92-13523
W. Kenneth Law, Clerk

THIRD COURT OF APPEALS
P.O. BOX 12547
AUSTIN, TEXAS 78711

MR. ELIJAH W. RATCLIFF
P. O. BOX 862
MAIL TO: LIVINGSTON TX 77351

OFFICIAL NOTICE FROM SUPREME COURT OF TEXAS
August 7, 1995
RE: Case No. 95-0757
GOA#: 03-94-00340-CV
Style: ELIJAH W. RATCLIFF. Individually and ELIJAH W. RATCLIFF, EX RELA
v. ROBERT G. JOHNSTON, R.D. COOPER, KAREN JOHNSON, THE STATE OF TEXAS

Relator's motiion for leave to file petition for writ of mandamus in the above styled case was this day filed with the Supreme Court of Texas.

John T. Adams.
Clerk

SUPREME COURT OF TEXAS P.O. BOX 12248
AUSTIN, TEXAS 78711

MR ELIJAH W RATCLIFF
P 0 BOX 862
MAIL TO: LIVINGSTON TX 77351

THE SUPREME COURT OF TEXAS
Post Office Box 12248
Austin, Texas 78711 (512) 463-1312

September 14, 1995

Ms. Susan F. Eley
Office of the Attorney General Dan Morales, A. G. P. 0. Box 12548
Capitol Station Austin, TX 78711

Ms. Mary F. Klapperich Office of General Counsel State Bar of Texas P. 0. Box 12487 Austin, TX 78711

RE- Case Number 95-0757
Style- ELIJAH W. RATCLIFF, Individually and ELIJAH W. RATCLIFF, EX RELATION DUNBAR RESOURCES-LIVINGSTON INC.
V.
ROBERT G- JOHNSTONE, R.D. COOPER, KAREN JOHNSON, THE STATE
OF TEXAS, THE STATE BAR OF TEXAS, and agency of the State of Texas, and the TEXAS EMPLOYMENT COMMISSION, and agency of the STATE OF TEXAS, THE HONORABLE AMALIA-RODRIGUEZ-MENDOZA ET AL.

Dear Counsel:

Today, the Supreme Court of Texas overruled relator's motion for leave to file petition for writ of mandamus in the above styled case.

Respectfully yours,

JOHN T. ADAMS, CLERK

BY: Michael C. Murphey, Deputy Clerk

cc: Honorable W. Jeanne Meurer
Mr. Elijah W. Ratcliff
Ms. Amalia Rodriguez-Mendoza
Mr. W. Kenneth Law, Clerk

Title 28, United States Code,
§ 1257. State courts; certiorari

(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

(h) For the purposes of this section, the term "highest court of a State" includes the District of Columbia Court of Appeals.

Title 28, United States Code,
§ 1447. Procedure after removal generally

(a) In any case removed from a State court, the district court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the State court or otherwise.

(b) It may require the petitioner to file with its clerk copies of all records and proceedings in such State court or may cause the same to be brought before it by writ of certiorari issued to such State court.

(c) If at any time before final

judgment it appears that the case was removed improvidently and without jurisdiction, the district court shall remand the case, and may order the payment of just costs. A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon proceed with such case.

(d) An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1443 of this title shall be reviewable by appeal or otherwise.

Title 28, United States Code, § 1651. Writs

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

Title 42, United States Code, § 1981. Equal rights under the law

All persons within the jurisdiction of the United States shall have the same right in every State And Territory to make and enforce contracts, to sue, be parties. give evidence, and to the full and equal benefit of all laws and

proceedings for the security of persons and property as is enjoyed white citizens, and shall be subject to like punishment. pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

Title 42, United States Code, § 1982. Property rights of citizens

All citizens of the United State shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

Title 42, United States Code, § 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Title 42, United States Code, § 2000e. Definitions

For the purposes of this subchapter-

(a) The term "person" includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11, or receivers.

(b) The term "employer" means a person engaged in an in-dustry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of Title 5), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501 (c) of Title 26, except that during the first year after March 24, 1972, persons having fewer than twenty-five employees (and their agents) shall not be considered employers.

(c) The term "employment agency" means any person regu-larly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or condition of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for, an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) twenty-five or more during the first year after March 24, 1972, or (B) fifteen or more thereafter. and such labor organization-

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

(2) although not certified, is a

national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy mem-bership or become affiliated with such labor organization; or

(6) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsec-tion.

(f) The term "employee" means an individual employed by an employer, except that the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of

the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the sev-eral States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959, and further includes any Governmental industry, business, or activity.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin lslands, American Samoa, Guam, Wake Island, the Canal Zone, and the Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

(j) The term "religion" includes all aspects o religious observance and practice as well as belief, unless an employer demonstrates that he is unable

to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(k) The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 2000e-2(h) of this title shall be interpreted to permit otherwise. This subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion: Provided, That nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.

Title 42, United States Code, § 2000e -2. Unlawful employment practices

Employer practices

(a) It shall be an unlawful employment practice for an employer--

(1) to fail or refuse to hire or to

discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

Employment agency practices

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

Labor organization practices

(c) It shall be an unlawful employment practice for a labor organization-

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership or applicants for

membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

Training programs

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

Business or enterprises with personnel qualified on basis of religion, sex, or national origin; educational institutions with personnel of particular religion

(e) Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for

a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

Members of Communist Party or Communist-action or Communist-front organizations

(f) As used in this subchapter, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor

organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

National security

(g) Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if-

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

Seniority or merit systems; quantity or quality of production; ability tests; compensation based on sex and authorized by minimum wage provisions

(h) Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin. It shall not be an unlawful employment practice under this subchapter for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 206(d) of Title 29.

Business or enterprises extending preferential treatment to Indians

(i) Nothing contained in this subchapter shall apply to any business or

enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

Preferential treatment not to be granted on account of existing number or percentage balance

(j) Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

Title 42, United States Code,
§ 2000e-3. Other unlawful employment practices

Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings

(a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this sub-chapter, or because he has made a charge, testified, assisted. or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

Printing or publication of notices or advertisements indicating prohibited preference, limitation, specification, or discrimination; occupational qualification exception

(b) It shall be an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or

advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in any program established to provide apprenticeship or other training by such a joint labor-management committee, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

Title 42, United States Code, § 2000e-7. Effect on State law.

Nothing in this subchapter shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or Political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this subchapter.

Vernon's Ann. Tex. Civ. St., Art. 5221b, Sec. 14(b):

Collections: If, after notice, any employer defaults in any payment of contributions, penalties or interest thereon, the Commission shall collect the amount due either by civil action in a District Court in Travis County, Texas, in the name of the State and the Attorney General, or by serving a notice of assessment on the defaulting employer, stating the amount of contributions, penalties, and interest outstanding. Such notice of assessment shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said notice of assessment may be shown. The notice shall be served in the manner provided by law for service of process on a defendant in a civil action in the district court. An employer who is aggrieved by the determination of the Commission as stated in the notice of assessment may seek judicial review with a Travis County district court not later than the 30th day after the date on which the notice of this assessment is served. A copy of the petition shall be served on a member of the Commission, or upon such person as the Commission may designate, in the manner prescribed by law for the service of process on a defendant in a civil action in district court. If the employer does not seek judicial review as provided by this subsection, the Commission assessment is final for all purposes. An assessment that is not contested by the employer or that is upheld after judicial review shall be treated as if it were the final judgment of a district court, and shall be recorded, enforced, and renewed in the same manner. Unless the employer prevails in the civil action or the

notice of assessment is reversed by a reviewing court, the employer shall pay all costs of either action. The commission may not begin a civil action in court nor make an assessment under this subsection to collect contributions or penalties from an employer after the expiration of three (3) years from the due date of such contribution, except that, in any case of a willful attempt in any manner to evade any of the provisions of the Unemployment Compensation Law or Commission rules or regulations promulgated thereunder, such action or assessment may be begun or made at any time.

An employer liable for contributions, penalties, or interest under this Act who fails to pay such sums when due shall, after a judgment has been entered therefor or an assessment has become final and execution returned unsatisfied, forfeit his right to employ individuals in this State until he enters into a bond with sureties to be approved by the Commission, in an amount not to exceed double the sum then due plus contributions estimated by the Commission to become due by said employer during the next calendar year, said bond to be conditioned upon payment of all contributions, penalties, interest, and court costs due and owing by the employer within thirty (30) days after the expiration of the next ensuing calendar year, and in the event the employer fails to furnish such bond or pay the taxes, interest, and penalty then found to be due, the Commission may proceed by injunction to prevent the continuance of such employment upon the failure by the

employer by applying to the court which previously entered judgment against the employer for contributions, penalties or interest, and a temporary injunction enjoining the employer from employing persons in this State without first posting bond as aforesaid may be granted after reasonable notice of not less than ten (10) days by said court; and such temporary injunction may upon final hearing be made permanent and shall remain in full force and effect until the requirements of this Section have been fully satisfied.

Vernon's Ann. Tex. Civ. St., Art. 5221b, Sec. 14-A:

All sums due by any employing unit to the Commission under this Act shall become a lien on all the property both real and personal belonging to such employing unit or to any individual so indebted. The lien shall attach at the time any contributions, penalties, interest, or other charges become delinquent. The provisions of Subchapters A and B of Chapter 113, Tax Code, govern the enforcement of this lien. The Commission has all the duties imposed, and the power and authority in administering and enforcing the lien created by this Section that is conferred on the Comptroller for the enforcement of other liens under Subchapters A and B of Chapter 113, Tax Code. This lien is cumulative of the other lien provided in this Act and that lien is effective according to its terms.

V.T.C.A. Civil Practices & Remedies Code § 103.001. Claimants Entitled to Compensation

A person is entitled to compensation if the person:

(1) has served in whole or in part a sentence in prison under the laws of this state;

(2) pleaded "not guilty" to the charge for which he was convicted and that led to the imprisonment;

(3) is not guilty of the crime for which he was sentenced; and

(4) has received a full pardon for the crime and punishment for which he was sentenced.

V.T.C.A. Civil Practices & Remedies Code § 103.002. Waiver of immunity; Filing Suit

(a) A person may bring a suit against the state under this chapter, and the state's immunity from the suit is waived.

(b) The suit must be initiated by a verified petition alleging that the petitioner is entitled to compensation.

(c) The suit shall be brought in a court of competent jurisdiction either in the county of his residence at the time the suit is commenced or in Travis County.

(d) Citation must be served on the state by serving the attorney general. The attorney general shall represent the state in the proceeding.

V.T.C.A. Civil Practices & Remedies Code § 103-003. Standard of Proof

The petitioner must establish by a preponderance of the evidence that he is entitled to compensation and the amount of compensation to which he is entitled.

V.T.C.A. Civil Practices & Remedies Code § 103.004. Insufficient State Defenses

The following are not defenses to an action brought under this chapter:

(1) the judgment of conviction in the trial that resulted in the claimant's imprisonment; or

(2) an indictment, information, complaint, or other formal accusation.

V.T.C.A. Civil Practices & Remedies Code § 103.005. Admissible Evidence

(a) In the suit, the court may admit as evidence the record of the trial at which the petitioner was convicted and the pardon or proclamation issued to him by the Governor.

(b) The Court may also admit all court papers, orders, docket notations, or other writings of record in any court in this state as proof of the facts set forth in the writings.

V.T.C.A. Civil Practices & Remedies Code § 103.006. Damages

(a) If the jury or the judge in a nonjury trial finds that the claimant is entitled to compensation, the jury or judge shall assess damages to compensate the claimant fairly and reasonably for:

(1) physical and mental pain and suffering sustained by him as a proximate result of the erroneous conviction or imprisonment from the time of the conviction by the trial court; and

(2) all reasonable and necessary medical expense incurred by him as a proximate result of the erroneous conviction or imprisonment from the time of the conviction by the trial court.

(b) Damages assessed for physical and mental pain and suffering may not cxceed $25,000. Total damages assessed under this chapter may not exceed $50,000.

V.T.C.A. Civil Practices & Remedies Code § 103.007. Limitation of Action

(a) A person who claims compensation for a sentence served in whole or in part after August 30, 1965, must bring the action within two years after:

(1) the person ceased serving the sentence of imprisonment;

(2) the person was released from custody; or

(3) the person discovered or should have discovered the evidence substantiating his innocence.

(b) A person who claims compensation for a sentence served before August 30, 1965, must bring the action within two years after he discovered or should have discovered the evidence substantiating his innocence.

V.T.C.A. Civil Practices & Remedies Code § 104.001. State Liability; Persons Covered

In a cause of action based on conduct described in Section 104.002, the state shall indemnify the following persons for actual damages, court costs, and attorney's fees adjudged against:

(1) an employee, a member of the governing board, or any other officer of a state agency, institution, or department;

(2) a former employee, former member of the governing board, or any other former officer of a state agency, institution, or department who was an employee or officer when the act or omission on which the damages are based occurred;

(3) a physician or psychiatrist licensed in this state who was performing services under a contract with any state agency, institution, or department or a racing official performing services under a contract with the Texas Racing Commission when the act or omission on which the damages are based occurred;

(4) a person serving on the governing board of a foundation, corporation, or association at the request and on behalf of an institution of higher education, as that term is defined by Section 61.003(8), Education Code, not including a public junior college; or

(5) the estate of a person listed in this section.

V.T.C.A. Civil Practices & Remedies Code § 104.002. State Liability; Conduct Covered

(a) Except as provided by Subsection (b), the state is liable for indemnification under this chapter only if the damages are based on an act or omission by the person in the course and scope of the person's office, employment, or contractual performance for or service on behalf of the agency, institution, or department and if:

(1) the damages arise out of a cause of action for negligence, except a wilful or wrongful act or an act of gross negligence; or

(2) the damages arise out of a cause of action for deprivation of a right, privilege, or immunity secured by the constitution or laws of this state or the United States, except when the court in its judgment or the jury in its verdict finds that the person acted in bad faith, with conscious indifference or reckless disregard; or

(3) indemnification is in the interest of the state as determined by the attorney general or his designee.

(b) The state is liable for indemnification under this chapter if:

(1) the person is liable for the damages solely because the person signed

an industrial solid waste or hazardous waste manifest or other record required by Section 361.036, Health and Safety Code;

(2) the person signed the manifest or record in the course and scope of the person's office, employment, or contractual performance or service on behalf of the agency, institution, or department; and

(3) the person or company who signed the manifest did not increase or aggravate circumstances of contamination by negligent acts or wilful misconduct.

V.T.C.A. Civil Practices & Remedies Code § 104.003. Limits on Amount of Recoverable Damages

(a) Except as provided by Subsection (c), state liability for indemnification under this chapter may not exceed:

(1) $100,000 to a single person and $300,000 for a single occurrence in the case of personal injury, death, or deprivation of a right, privilege, or immunity, and

(2) $10,000 for a single occurrence of damage to property.

(b) The state is not liable under this chapter to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance authorized by statute.

(c) The limits on state liability

provided by Subsection (a) do not apply if:

(1) the state liability is based on Section 104.002(b); or

(2) the person for whose acts the state is liable under this chapter is a member of the Texas Board of Criminal Justice.

V.T.C.A. Civil Practices & Remedies Code § 104.0035. State Liability; Criminal Prosecution

(a) The state shall indemnify a person for reasonable attorney's fees incurred in defense of a criminal prosecution against the person if:

(1) the person is covered by Section 104.001;

(2) the attorney general determines that the conduct for which the person is criminally prosecuted could give rise to a civil cause of action covered by Section 104.002;

(3) the person is found not guilty after a trial or appeal or the complaint, information, or indictment is dismissed without a plea of guilty or nolo contenders being entered; and

(4) the attorney general determines that the complaint, information, or indictment presented against the person was dismissed because:

(A) the presentment was made on mistake, false information, or other

similar basis, indicating absence of probable cause to believe, at the time of the dismissal, the person committed the offense, or

(B) the complaint, information, or indictment was void.

(b) State liability for indemnification under this section may not exceed $10,000 for the prosecution of a criminal offense or the prosecution of two or more offenses prosecuted in a single criminal action.

(c) This section does not apply to a person who is criminally prosecuted for driving while intoxicated under Article 67011-1, Revised Statutes, or for involuntary manslaughter under Section 19.05(a)(2), Penal Code.

(d) An initial determination of the liability of the state for indemnification and the reasonableness of attorney's fees under this section shall be made by the attorney general upon application by any person other than:

(1) an employee or former employee of the attorney general's office; or

(2) the attorney general or a former attorney general.

(e) If the attorney general determines under Subsection (d) that the state is liable for indemnification, the attorney general shall indemnify the person for reasonable attorney's fees as provided by this section from funds appropriated for that purpose. If the attorney general

determines that the state is not liable for indemnification, the person may appeal to a district court in Travis County. A person who is not entitled to an initial determination under Subsection (d) may bring an action in a district court in Travis County.

(f) The district court in Travis County has jurisdiction to hear a suit under this section and may issue an order directing the attorney general's office to indemnify the person for reasonable attorney's fees as provided by this section. The judgment of the district court is final and is not subject to appeal.

V.T.C.A. Civil Practices & Remedies Code § 104.004. Defense by Attorney General

(a) The attorney general shall defend a public servant or estate listed in Section 104.001 in a cause of action covered by this chapter.

(b) The attorney general may settle or compromise the portion of a lawsuit that may result in state liability under this chapter.

(c) It is not a conflict of interest for the attorney general to defend a person tinder this chapter and also to prosecute a legal action against that person as required or authorized by law if different assistant attorneys general are assigned the responsibility of each action.

V.T.C.A. Civil Practices & Remedies Code § 104.005 Service of Process or Timely

Notice to Attorney General Required

Except as provided by Section 104.0035, the state is not liable for the defense of an action covered by this chapter or for damages, court costs, or attorney's fees unless:

(1) the attorney general has been served in the case and the state has been given an opportunity to defend the suit; or

(2) the person against whom the action is brought delivers to the attorney general all process served on the person not later than the 10th day after the date of service.

V.T.C.A. Civil Practices & Remedies Code § 104.006. Security or Bond

In a cause of action defended by the attorney general under this chapter, the attorney general or the individual or estate represented may not be required to advance security for cost or to give bond on appeal or on review by writ of error.

V.T.C.A. Civil Practices & Remedies Code § 104.007. Funds for Defense

(a) Only funds appropriated from the General Revenue Fund to the attorney general may be used to conduct the defense of an action that the attorney general is required to defend under this chapter.

(b) Conducting the defense of an action covered by this chapter includes investigating, taking depositions, making

discovery, preparing for trial, preparing exhibits or other evidence, and participating in actual trial.

V.T.C.A. Civil Practices & Remedies Code § 104.008. No Waiver of Defenses

This chapter does not waive a defense, immunity, or jurisdictional bar available to the state or its officers, employees, or contractors.

V.T.C.A. Civil Practices & Remedies Code § 105.001 Definitions

In this chapter:

(1) "Fees and other expenses" means:

(A) the reasonable expenses of witnesses incurred in preparing to testify or in attending or testifying;

(B) a reasonable fee for the professional services of an expert witness; and

(C) the reasonable costs of a study, analysis, engineering report, test, or other project the court finds to be necessary for the preparation of the party's case.

(2) "Party" means an individual, partnership, corporation, association, or public or private organization other than a state agency.

(3) "State agency" means a board, commission, department, office, or other agency that:

(A) is in the executive branch of state government;

(B) was created by the constitution or a statute of this state; and

(C) has statewide jurisdiction.

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V.T.C.A. Civil Practices & Remedies Code § 105.002. Recovery of Fees, Expenses, and Attorney's Fees

A party to a civil suit in a court of this state brought by or against a state agency in which the agency asserts a cause of action against the party, either originally or as a counterclaim or cross claim, is entitled to recover, in addition to all other costs allowed by law or rule, fees, expenses, and reasonable attorney's fees incurred by the party in defending the agency's action if:

(1) the court finds that the action is frivolous, unreasonable, or without foundation; and

(2) the action is dismissed or judgment is awarded to the party.

V.T.C.A. Civil Practices & Remedies Code § 105.003. Motion of Frivolous Claim

(a) To recover under this chapter, the party must file a written motion alleging that the agency's claim is frivolous, unreasonable, or without foundation. The motion may be filed at any time after the filing of the pleadings in which the agency's cause of action is alleged.

(b) The motion must set forth the facts that justify the party's claim.

(c) The motion must state that if the action is dismissed or judgment is awarded to the party, the party intends to submit a motion to the court to recover fees, expenses, and reasonable attorney's fees.

V.T.C.A. Civil Practices & Remedies Code

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§ 105.004. Payment of Costs

The agency shall pay the fees and expenses from funds appropriated for operation of the agency, funds appropriated for the payment of fees and expenses under this chapter, or other funds available for that purpose.

V.T.C.A. Civil Practices & Remedies Code § 106.001. Prohibited Acts

(a) An officer or employee of the state or of a political subdivision of the state who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:

(1) refuse to issue to the person a license, permit, or certificate:
(2) revoke or suspend the person's license, permit, or certificate;
(3) refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or a political subdivision of the state:
(4) refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the state or a political subdivision of the state;
(5) refuse to grant a benefit to the person;
(6) impose an unreasonable burden on the person; or
(7) refuse to award a contract to the person.

(b) This section does not apply to a public school official who is acting under a plan reasonably designed to end

discriminatory school practices.

(c)(1) In this subsection:

(A) "Minority business enterprises" means businesses at least 51 percent of which are both owned and controlled in management and daily operations by minorities or women.

(B) "Minorities" includes blacks, Hispanics, Asian-Americans, American Indians, and Alaska natives.

Text of subd. (c)(2) as amended by Acts 1991, 72nd leg., ch. 597, } 56

(2) Neither this section nor any home-rule charter or general law may be construed to prevent a home-rule municipality with a population of one million or more according to the most recent federal census from adopting a program or programs designed to reasonably increase participation by minority business enterprises in public contract awards. If, as part of a program described by this subdivision, the governing body of such a municipality establishes a goal of having a certain percentage of its public contract awards made to minority business enterprises, the governing body shall use a qualified independent source to establish to what extent minority business enterprises in the municipality are available to receive awards for each of the various kinds of construction of public contracts that will be awarded. The percentage goal shall not exceed the availability of minority business enterprises in the municipality as determined by the independent source.

Text of subd. (c)(2) as amended by Acts 1991, 72nd leg., ch. 665, } 1

(2) Neither this section nor any home-rule charter or general law may be construed to prevent a home-rule municipality that has a population of 465,000 or more according to the most recent federal census or home-rule municipality located in a county containing: (1) a population of more than 465,000 according to the most recent federal census; and (2) more than 35 incorporated municipalities according to the most recent federal census from adopting a program or programs designed to reasonably increase participation by minority business enterprises in public contract awards, If, as part of a program described by this subdivision, the governing body of such a municipality establishes a goal of having a certain percentage of its public contract awards made to minority business enterprises, the governing body shall use a qualified in-house audit to establish to what extent minority business enterprises in the municipality are available to receive awards for each of the various kinds of construction of public contracts that will be awarded. The percentage goal shall not exceed the availability of minority business enterprises in the municipality as determined by the in-house audit.

(3) If the governing body of a municipality described by Subdivision (2) of this subsection adopts a program described by that subdivision, the governing body must also provide a program outlining acceptable assistance

that may be provided by contractors or others to minority business enterprises in the municipality to achieve the purposes of the program described by Subdivision (2).

(4) General law or a home-rule charter that requires competitive bidding and the award of public contracts to the lowest responsible bidders is not affected by this subsection. However, all prospective bidders may be re-quired to meet uniform standards designed to assure a reasonable degree of participation by minority business enterprises in the performance of any public contract.

(5) This Subsection expires January 1, 1999.

V.T.C.A. Civil Practices & Remedies Code § 106.002. Remedies

(a) If a Person has violated or there are reasonable grounds to believe a person is about to violate Section 106.0 01, the person aggrieved by the violation may or threatened violation may sue for preventive relief, including a permanent or temporary injunction, a restraining order, or any other order.

(b) In an action under this section, unless the state is the prevailing party, the court may award the prevailing party reasonable attorney's fees as a part of costs. The state's liability for costs is the same as that of a private person.

V.T.C.A. Civil Practices & Remedies Code § 106.003. Penalties

(a) A Person commits an offense if the person knowingly violates Section 106.001.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than $1,000;
(2) confinement in the county jail for not more than one year; or
(3) both fine and confinement.

V.T.C.A. Government Code § 22.001. Jurisdiction

(a) The supreme court has appellate jurisdiction, except in criminal law matters, coextensive with the limits of the state and extending to all questions of law arising in the following cases when they have been brought to the courts of appeals from appealable judgment of the trial courts:

(1) a case in which the justices of a court of appeals disagree on a question of law material to the decision;

(2) a case in which one of the courts of appeals holds differently from a prior decision of another court of appeals or of the supreme court on a question of law material to a decision of the case;

(3) a case involving the construction or validity of a statute necessary to a determination of the case;

(4) a case involving state revenue;

(5) a case in which the railroad commission is a party; and

(6) any other case in which it appears that an error of law has been committed by the court of appeals, and that error is of such importance to the jurisprudence of the state that, in the opinion of the supreme court, it requires correction, but excluding those cases in which the jurisdiction of the court of appeals is made final by statute.

(b) A case over which the court has jurisdiction under Subsection (a) may be carried to the supreme court either by writ of error or by certificate from the court of appeals, but the court of appeals may certify a question of law arising in any of those cases at any time it chooses, either before or after the decision of the case in that court.

(c) An appeal may be taken directly to the supreme court from an order of a trial court granting or denying an interlocutory or permanent injunction on the ground of the constitutionality of a statute of this state. It is the duty of the supreme court to prescribe the necessary rules of procedure to be followed in perfecting the appeal.

(d) The supreme court has the power, on affidavit or otherwise, as the court may determine, to ascertain the matters of fact that are necessary to the proper exercise of its jurisdiction.

V.T.C.A. Government Code § 22.002. Writ Power

(a) The supreme court or a justice of the supreme court may issue writs of

procedendo and certiorari and all writs of quo warranto and mandamus agreeable to the principles of law regulating those writs, against a district judge, a court of appeals or a justice of a court of appeals, or any officer of state government except the governor, the court of criminal appeals, or a judge of the court of criminal appeals.

(b) The supreme court or, in vacation, a justice of the supreme court may issue a writ of mandamus to compel a district judge to proceed to trial and judgment in a case agreeable to the principles and usages of law, returnable to the supreme court on or before the first day of the term, or during the session of the term, or before any justice of the supreme court as the nature of the case requires.

(c) Only the supreme court has the authority to issue a writ of mandamus or injunction, or any other mandatory or compulsory writ or process, against any of the officers of the executive departments of the government of this; state to order or compel the performance of a judicial, ministerial, or discretionary act or duty that, by state law, the officer or officers are authorized to perform.

(d) Repealed by Acts 1987, 70th Leg., ch. 148, § 2.03, eff. Sept. 1, 1987.

(e) The supreme court or a justice of the supreme court, either in term time or vacation, may issue a writ of habeas corpus when a person is restrained in his liberty by virtue of an order, process, or commitment issued by a court or judge

on account of the violation of an order, judgment, or decree previously made, rendered, or entered by the court or judge in a civil case. Pending the hearing of an application for a writ of habeas corpus, the supreme court or a justice of the supreme court may admit to bail a person to whom the writ of habeas corpus may be so granted.

V.T.C.A. Government Code § 22.201.
Courts of Appeals Districts

(a) The state is divided into 14 courts of appeals districts with a court of appeals in each district.

(b) The First Court of Appeals District is composed of the counties of Austin, Brazoria, Brazos, Burleson, Chambers, Colorado, Fort Bend, Galveston, Grimes, Harris, Trinity, Walker, Waller, and Washington.

(c) The Second Court of Appeals District is composed of the counties of Archer, Clay, Cooke, Denton, Hood, Jack, Montague, Parker, Tarrant, Wichita, Wise, and Young.

(d) The Third Court of Appeals District is composed of the counties of Bastrop, Bell, Blanco, Burnet, Caldwell, Coke, Cornal, Concho, Fayette, Hays, Irion, Lampasas, Lee, Llano, McCulloch, Milam, Mills, Runnels, San Saba, Schleicher, Sterling, Tom Green, Travis, and Williamson.

(e) The Fourth Court of Appeals District is composed of the counties of Atascosa, Bandera, Bexar, Brooks, Dimmit,

Duval, Edwards, Frio, Gillespie, Guadalupe, Jim Hogg, Jim Wells, Karnes, Kendall, Kerr, Kimble, Kinney, LaSalle, McMullen, Mason, Maverick, Medina, Menard, Real, Starr, Sutton, Uvalde, Val Verde, Webb, Wilson, Zapata, and Zavala.

(f) The Fifth Court of Appeals District is composed of the counties of Collin, Dallas, Grayson, Hunt, Kaufman, Rockwall, and Van Zandt.

(g) The Sixth Court of Appeals District is composed of the counties of Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Lamar, Marion, Morris, Panola, Red River, Rusk, Titus, Upshur, and Wood.

(h) The Seventh Court of Appeals District is composed of the counties of Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collins...

V.T.C.A. Government Code § 22.220. Civil Jurisdiction

(a) Each court of appeals has appellate jurisdiction of all civil cases within its district of which the district courts or county courts have jurisdiction when the amount in controversy or the judgment rendered exceeds $100, exclusive of interest and costs.

(b) If a court of appeals having jurisdiction in a case, matter, or controversy that requires immediate action is unable to take immediate action because the illness, absence, or unavailability of the justices causes fewer than three members of the court to be present, the nearest available court of appeals, under rules prescribed by the

supreme court, may take the action required in the case, matter, or controversy.

(c) Each court of appeals may, on affidavit or otherwise, as the court may determine, ascertain the matters of fact that are necessary to the proper exercise of its jurisdiction.

V.T.C.A. Government Code § 22.221. Writ Power

(a) Each court of appeals or a justice of a court of appeals may issue a writ of mandamus and all other writs necessary to enforce the jurisdiction of the court.

(b) Each court of appeals for a court of appeals district may issue all writs of mandamus, agreeable to the principles of law regulating those writs, against a judge of a district or county court in the court of appeals district.

(c) Repealed by Acts 1987, 70th Leg., ch. 148, § 2.03, eff. Sept. 1, 1987.

(d) Concurrently with the supreme court, the court of appeals of a court of appeals district in which a person is restrained in his liberty, or a justice of the court of appeals, may issue a writ of habeas corpus when it appears that the restraint of liberty is by virtue of an order, process, or commitment issued by a court or judge because of the violation of an order, judgment, or decree previously made, rendered, or entered by the court or judge in a divorce case, wife or child support case, or child custody case. Pending the hearing of an

application for a writ of habeas corpus, the court of appeals or a justice of the court of appeals may admit to bail a person to whom the writ of habeas corpus may be granted.

V.T.C.A. Government Code § 24.007. Jurisdiction

The district court has the jurisdiction provided by Article V, Section 8, of the Texas Constitution.

V.T.C.A. Government Code § 24.008. Other Jurisdiction

The district court may hear and determine any cause that is cognizable by courts of law or equity and may grant any relief that could be granted by either courts of law or equity.

Vernon's Ann. Tex. Rules Civ. Proc., rule 45. DEFINITION AND SYSTEM

Pleadings in the district and county courts shall
(a) be by petition and answer;
(b) consist of a statement in plain and concise language of the plaintiff's cause of action or the defendant's grounds of defense. That an allegation be evidentiary or be of a legal conclusion shall not be grounds for objection when fair notice to the opponent is given by the allegation as a whole;
(c) contain any other matter which may be required by any other law or rule authorizing or regulating any particular action or defense;
(d) be in writing, on paper measuring

approximately 8 1/2 inches by 11 inches, and signed by the party or his attorney, and either the signed original together with any verification or a copy of said original and copy of any such verification shall be filed with the court. The use of recycled paper is recommended When a copy of the signed original is tendered for filing, the party or his attorney filing such copy, is required to maintain the signed original for inspection by the court or any party incident to the suit, should a question be raised as to its authenticity.

All pleadings shall be construed so as to do substantial justice.

Vernon's Ann. Tex. Rules Civ. Proc., rule 46. PETITION AND ANSWER; EACH ONE INSTRUMENT OF WRITING

The original petition, first supplemental petition, second supplemental petition, and every other, shall each be contained in one instrument of writing, and so with the original answer and each of the supplemental answers.

Vernon's Ann. Tex. Rules Civ. Proc., rule 47. CLAIMS FOR RELIEF

An original pleading which sets forth a claim for relief, whether an original petition, counterclaim, cross-claim, or third party claim, shall contain

(a) a short statement of the cause of action sufficient to give fair notice of the claim involved,

(b) in all claims for unliquidated damages only the statement that the damages sought are within the jurisdictional limits of the court, and

(c) a demand for judgment for all the other relief to which the party deems himself entitled.

Relief in the alternative or of several different types may be demanded; provided, further, that upon special exception the court shall require the pleader to amend so as to specify the maximum amount claimed.

Vernon's Ann. Tex. Rules Civ. Proc., rule 48. ALTERNATIVE CLAIMS FOR RELIEF

A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency and whether based upon legal or equitable grounds or both.

Vernon's Ann. Tex. Rules Civ. Proc., rule 49. WHERE SEVERAL COUNTS

Where there are several counts in the petition, and entire damages are given, the verdict or judgment, as the case may

be, shall be good, notwithstanding one or more of such counts may he defective.

Vernon's Ann. Tex. Rules Civ. Proc., rule 50. PARAGRAPHS, SEPARATE STATEMENTS

All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings, so long as the pleading containing such paragraph has not been superseded by an amendment as provided by Rule 65. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

Vernon's Ann. Tex. Rules Civ. Proc., rule 51. JOINDER OF CLAIMS AND REMEDIES

(a) Joinder of Claims. The plaintiff in his petition or in a reply setting forth a counterclaim and the defendant in an answer setting forth a counterclaim may join either as independent or as alternate claims as many claims either legal equitable or both as he may have against an opposing party. There may be a like joinder of claims when there are multiple parties if the requirements of Rules 39, 40, and 43 are satisfied. There may be a like joinder of cross claims or third-party claims if the requirements of Rules 38 and 97, respectively, are satisfied.

(b) Joinder of Remedies. Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties. This rule shall not be applied in tort cases so as to permit the joinder of a liability or indemnity insurance company, unless such company is by statute or contract directly liable to the person injured or damaged.

Vernon's Ann. Tex. Rules Civ. Proc., rule 63. AMENDMENTS AND RESPONSIVE PLEADINGS

Parties may amend their pleadings, respond to pleadings, on fill of other parties, file suggestions of death and make representative parties, and file such other pleas as they may desire by filing such pleas with the clerk at such time as not to as not to operate as a surprise to the opposite party; provided, that any pleading, responses or pleas offered for filing within seven days of the date of trial or thereafter, or after such time as may be ordered by the judge under Rule 166, shall be filed only after leave of the judge obtained, which leave by the judge unless there is a showing that such filing will operate as a surprise to the opposite party.

Vernon's Ann. Tex. Rules Civ. Proc., rule 166a. SUMMARY JUDGMENT

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or

cross-claim or to obtain a declaratory judgment may, at any time after the adverse party has appeared or answered, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof. A summary judgment, interlocutory, in character, may be rendered on the issue of liability alone although there is a genuine issue as to amount of damages.

(b) For Defending Party. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

(c) Motion and Proceedings Thereon. The motion for summary judgment shall state the specific grounds therefor. Except on leave of court, with notice to opposing counsel, the motion and any supporting affidavits shall be filed and served at least twenty-one days before the time specified for hearing. Except on leave of court, the adverse party, not later than seven days prior to the day of hearing may file and serve opposing affidavits or other written response. No oral testimony shall be received at the hearing. The judgment sought shall be rendered forthwith if (i) the deposition transcripts, interrogatory answers, and other discovery responses referenced or set forth In the motion or response, and (ii) the pleadings, admissions, affidavits, stipulations of the parties, and authenticated or certified public records, if any, on file at the time of the hearing, or filed thereafter and before judgment with permission of the

court, show that, except as to the amount of damages, there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the issues expressly set out in the motion or in an answer or any other response. Issues not expressly presented to the trial court by written motion, answer or other response shall not be considered on appeal as grounds for reversal. A summary judgment may be based on uncontroverted testimonial evidence of an interested witness, or of an expert witness as to subject matter concerning which the trier of fact must be guided solely by the opinion testimony of experts, if the evidence is clear, positive and direct, otherwise credible and free from contradictions and inconsistencies, and could have been readily controverted.

(d) Appendices, References and Other Use of Discovery Not Otherwise on File. Discovery products not on file With the clerk may be used as summary judgment evidence if copies of the material, appendices containing the evidence, or a notice containing specific references to the discovery or specific references to other instruments, are filed and served on all parties together with a statement of intent to use the specified discovery as summary judgment proofs: (i) at least twenty-one days before the hearing if such proofs are to be used to support the summary judgment; or (ii) at least seven days before the hearing if such proofs are to be used to oppose the summary judgment.

(e) Case Not Fully Adjudicated on Motion. If on motion under this rule judgment is not rendered upon the whole case or for

all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(f) Form of Affidavits; Further Testimony. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions or by further affidavits. Defects in the form of affidavits or attachments will not be grounds for reversal unless specifically pointed out by objection by an opposing party with opportunity, but refusal, to amend.

(g) When Affidavits Are Unavailable. Should it appear from the affidavits of a

party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(h) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

Vernon's Ann. Tex. Rules Civ. Proc.,rule 169. REQUEST FOR ADMISSION

I. Request for Admission. At any time after commencement of the action, a party may serve on any other Party a written request for the admission, for the purposes of the pending action only, of the truth of any matters within the scope of Rule 166b set forth in the request that relate statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of the documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Whenever a

party is represented by an attorney of record, service of a request for admission shall be made on his attorney unless service on the party himself is ordered by the court. A true copy of a request for admission or of a written answer or objection, together with proof of the service thereof as provided in Rule 21a shall be filed promptly in the clerk's office by the party making it.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted without necessity of a court order unless, within thirty days after service of the request, or within such time as the court may allow, or as otherwise agreed by the parties, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney, but, unless the court shortens the time, a defendant shall not he required to serve answers or objections before the expiration of fifty days after service of the citation and petition upon that defendant. If objection is made, the reason therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons that the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as

a reason for failure to admit or deny unless he states, that he has made reasonable inquiry and that the information known or easily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission is requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of paragraph 3 of Rule 215, deny the matter or set forth reason why he cannot admit or deny it.

2. Effect of Admission. Any matter admitted under this rule is conclusively established as to the party making the admission unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 166 governing amendment of a pretrial order, and Rule 166b-6 governing duty to supplement discovery responses, the court may permit withdrawal or amendment of responses and deemed admissions upon a showing of good cause for such withdrawal or amendment if the court finds that the parties relying upon the responses and deemed admissions will not be unduly prejudiced and that the presentation of the merits of the action will be subserved thereby. Any admission made by a party under this rule is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may be used against him in any other proceeding.

Vernon's Ann. Tex. Const. Art. 5, § 8:
Jurisdiction of District Court

District Court jurisdiction consists of exclusive, appellate, and original jurisdiction of all actions, proceedings, and remedies, except in cases where exclusive, appellate, or original jurisdiction may be conferred by this Constitution or other law on some other court, tribunal, or administrative body. District Court judges shall have the power to issue writs necessary to enforce their jurisdiction.

The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be by law.

United States Code, Const. Amend. XIV,

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

...

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.